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THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RUDOLPH HANNA,
 Plaintiff,

vs.

GENERAL ELECTRIC COMPANY,
 TODD SHIPYARDS CORPORATION,
 NATIONAL STEEL AND
 SHIPBUILDING COMPANY,

Defendants.

No. C08-980-JSW

JOINT MOTION AND STIPULATION TO
 STAY PROCEEDING OR, IN THE
 ALTERNATIVE, TO CONTINUE CASE
 MANAGEMENT DEADLINE AND
 CONFERENCE, AND TO EXTEND TIME;
~~PROPOSED~~ ORDER TO STAY;
~~PROPOSED ALTERNATIVE~~ ORDER
 TO CONTINUE

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed February 15, 2008 (Document 3) , and the *Order Setting Case Management Conference and Requiring Joint Case Management Conference Statement*, filed March 19, 2008 (Document 10) for the following good cause:

On March 25, 2008, Defendant GENERAL ELECTRIC COMPANY filed Document 17, a Notice to Tag Along Action regarding the pending Multidistrict Litigation (“MDL”) in the Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District. Defendant GENERAL ELECTRIC COMPANY has faxed counsel copy of a cover letter showing that this notice was mailed to the Judicial Panel on Multidistrict Litigation

1 (“JPML”) pursuant to 28 U.S.C. § 1407, said notice to the JPML from counsel being necessary
2 to initiate the transfer process.

3 On July 29, 1991, the JPML entered an order transferring all asbestos personal injury
4 cases pending in the federal courts to the United States District Court for the Eastern District of
5 Pennsylvania, for coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. (*In re Asbestos*
6 *Products Liability Litigation* (no. VI). MDL No. 875., 771 F.Supp. 415 (1991)). That order also
7 applies to “tag-along actions,” or actions involving common questions of fact filed after January
8 17, 1991. Such actions are to be transferred to the eastern District of Pennsylvania as part of
9 MDL 875, for coordinated pretrial proceedings.

10 The JPML has held that a district court has the authority to stay pending a transfer order.
11 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
12 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need
13 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
14 unnecessary interruption or delay.”)

15 The parties agree that it is likely that the JPML will transfer this matter to the Eastern
16 District of Pennsylvania.

17 However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*
18 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be
19 transferred, pursuant to JPML Rule 13(b).

20 It is likely the dates set forth in the *Case Management Scheduling Order* including the
21 deadlines imposed by Federal Rules of Civil Procedure 26, will come to pass **before** the Clerk of
22 the JPML acts.

23 The parties make this Motion on the grounds that a stay of this action would (a) promote
24 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
25 parties.

26 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to
27 and respectfully request the Court VACATE its *Case Management Scheduling Order* and that
28 the Court issue an Order STAYING this action pending the outcome of the MDL Panel’s

1 decision on the merits of the transfer.

2 In the alternative, the parties hereby STIPULATE to and respectfully request that the
3 dates set forth in the *Case Management Scheduling Order* be vacated and continued pending the
4 outcome of the JPML's decision on the merits of the transfer. Specifically, these deadlines¹ in
5 this matter include the **May 16, 2008** Rule 26 deadline to meet and confer, the **May 16, 2008**
6 deadline to file a Joint ADR Certification, the **May 30, 2008** Deadline to complete Initial
7 Disclosures, the **June 6, 2008** deadline to file the Joint Case Management Statement and the
8 **June 13, 2008** Case Management Conference.

9 Dated: March 31, 2008

BRAYTON❖PURCELL LLP

/s/ David R. Donadio

11 By: _____
12 David R. Donadio
13 Attorneys for Plaintiffs

14 Dated: April 2, 2008

SEDGWICK, DETERT, MORAN &
ARNOLD, LLP

/s/ Derek S. Johnson

17 By: _____
18 Derek S. Johnson
19 Attorneys for Defendant
GENERAL ELECTRIC COMPANY

20 Dated: March 31, 2008

YARON & ASSOCIATES

/s/ George D. Yaron

22 By: _____
23 George D. Yaron
24 Keith E. Patterson
25 Attorneys for Defendant TODD
SHIPYARDS CORPORATION

26 _____
27 ¹*Case Management Scheduling Order* filed February 15, 2008 (Document 3) provides
28 that "[i]f the Initial Case Management Conference is continued, the other deadlines are
continued accordingly." Therefore these dates are calculated pursuant to FRCivP 26, ADR
L.R. 3-5, Civil L.R. 16-8 and 16-9 and *Order* of March 19, 2008 (Document 10)

1 Dated: April 1, 2008

BRYDON, HUGO & PARKER

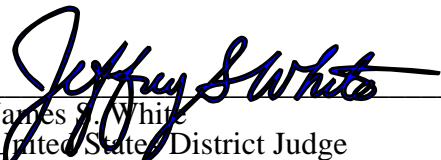
2 /s/ P.M. Bessette

3 By: _____
4 Edward R. Hugo
5 P.M. Bessette
6 Attorneys for Defendant
NATIONAL STEEL AND
SHIPBUILDING COMPANY

7 ~~[PROPOSED]~~ ORDER TO STAY

8 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case*
9 *Management Scheduling Order* filed February 15, 2008 (Document 3) , and the *Order Setting*
10 *Case Management Conference and Requiring Joint Case Management Conference Statement*,
11 filed March 19, 2008 (Document 10) are hereby VACATED and that this action is STAYED
12 pending the outcome of the JPML's decision on the merits of the transfer.

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14 Dated: April 4, 2008

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17 James S. White
United States District Judge

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